

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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GRACE-MARIE O'DONNELL,

Plaintiff,

Docket No.: 05 CV 610

-against-

ANSWER

1. CLUB MEDITERRANEE S.A., 2. CLUB MED
INC., 3. CLUB MED HOLDING, N.V., 4. CLUB
MED FINANCE B.V., 5. CLUB MED SALES,
INC., 6. HOLIDAY VILLAGES (PROVINCIALES
TURKS AND CAICOS), LTD., and 7. CLUB
MEDITERRANEE (BAHAMAS) LTD.,

Defendants.

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Defendants CLUB MEDITERRANEE S.A., CLUB MED, INC., CLUB MED
HOLDING, N.V., CLUB MED FINANCE B.V., CLUB MED SALES, INC., HOLIDAY
VILLAGES (PROVINCIALES TURKS and CAICOS), LTD., and CLUB
MEDITERRANEE (BAHAMAS) LTD., by their attorneys, STRONGIN ROTHMAN &
ABRAMS, LLP, answering the Verified Complaint of the Plaintiff, state as follows, upon
information and belief:

1. Deny any knowledge or information sufficient to form a belief as to the
allegations contained in paragraph "1" of the Verified Complaint.

2. Admit each and every allegation contained in paragraph "2" of the
Verified Complaint.

3. Deny each and every allegation contained in paragraph "3" of the
Verified Complaint but beg leave to refer all questions of law to the court at the trial of
this action.

4. Deny each and every allegation contained in paragraph "4" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

5. Deny each and every allegation contained in paragraph "5" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

6. Admit each and every allegation contained in paragraph "6" of the Verified Complaint.

7. Deny each and every allegation contained in paragraph "7" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

8. Deny each and every allegation contained in paragraph "8" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

9. Deny each and every allegation contained in paragraph "9" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

10. Deny each and every allegation contained in paragraph "10" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

11. Deny any knowledge or information sufficient to form a belief as to the allegations contained in paragraph "11" of the Verified Complaint.

12. Deny any knowledge or information sufficient to form a belief as to the allegations contained in paragraph "12" of the Verified Complaint.

13. Deny each and every allegation contained in paragraph "13" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

14. Deny each and every allegation contained in paragraph "14" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

15. Deny each and every allegation contained in paragraph "15" of the Verified Complaint.

16. Deny any knowledge or information sufficient to form a belief as to the allegations contained in paragraph "16" of the Verified Complaint.

17. Deny any knowledge or information sufficient to form a belief as to the allegations contained in paragraph "17" of the Verified Complaint.

18. Deny each and every allegation contained in paragraph "18" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

19. Deny each and every allegation contained in paragraph "19" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

20. Deny each and every allegation contained in paragraph "20" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

21. Deny each and every allegation contained in paragraph "21" of the Verified Complaint.

22. Deny each and every allegation contained in paragraph "22" of the Verified Complaint.

23. Deny each and every allegation contained in paragraph "23" of the Verified Complaint except admit that upon information and belief, defendant CLUB MED SALES, INC., was in the business of purchasing and selling vacation packages on a consignment basis from defendant, CLUB MED, INC., and retains commissions from the vacation packages sold.

24. Admit each and every allegation contained in paragraph "24" of the Verified Complaint.

25. Deny each and every allegation contained in paragraph "25" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

26. Deny each and every allegation contained in paragraph "26" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

27. Deny each and every allegation contained in paragraph "27" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

28. Deny each and every allegation contained in paragraph "28" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

29. Deny each and every allegation contained in paragraph "29" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

30. Admit each and every allegation contained in paragraph "30" of the Verified Complaint.

31. Admit each and every allegation contained in paragraph "31" of the Verified Complaint.

32. Deny any knowledge or information sufficient to form a belief as to the allegations contained in paragraph "32" of the Verified Complaint.

33. Deny each and every allegation contained in paragraph "33" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

34. Deny each and every allegation contained in paragraph "34" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

35. Deny each and every allegation contained in paragraph "35" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

36. Deny each and every allegation contained in paragraph "36" of the Verified Complaint.

37. Deny each and every allegation contained in paragraph "37" of the Verified Complaint.

38. Deny any knowledge or information sufficient to form a belief as to the allegations contained in paragraph "38" of the Verified Complaint.

39. Deny each and every allegation contained in paragraph "39" of the Verified Complaint.

ANSWERING THE FIRST CAUSE OF ACTION

40. Repeat, reiterate and reallege each and every response hereinbefore made with the same force and effect as though the same were set forth at length herein in answer to paragraph "40" of the Verified Complaint.

41. Deny each and every allegation contained in paragraph "41" of the Verified Complaint.

42. Deny any knowledge or information sufficient to form a belief as to the allegations contained in paragraph "42" of the Verified Complaint.

43. Deny each and every allegation contained in paragraph "43" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

44. Deny each and every allegation contained in paragraph "44" of the Verified Complaint.

45. Deny each and every allegation contained in paragraph "45" of the Verified Complaint.

46. Deny each and every allegation contained in paragraph "46" of the Verified Complaint.

ANSWERING THE SECOND CAUSE OF ACTION

47. Repeat, reiterate and reallege each and every response hereinbefore made with the same force and effect as though the same were set forth at length herein in answer to paragraph "47" of the Verified Complaint.

48. Deny each and every allegation contained in paragraph "48" of the Verified Complaint.

49. Deny any knowledge or information sufficient to form a belief as to the allegations contained in paragraph "49" of the Verified Complaint.

50. Deny each and every allegation contained in paragraph "50" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

51. Deny each and every allegation contained in paragraph "51" of the Verified Complaint.

52. Deny each and every allegation contained in paragraph "52" of the Verified Complaint.

53. Deny each and every allegation contained in paragraph "53" of the Verified Complaint.

ANSWERING THE THIRD CAUSE OF ACTION

54. Repeat, reiterate and reallege each and every response hereinbefore made with the same force and effect as though the same were set forth at length herein in answer to paragraph "54" of the Verified Complaint.

55. Deny each and every allegation contained in paragraph "55" of the Verified Complaint.

56. Deny any knowledge or information sufficient to form a belief as to the allegations contained in paragraph "56" of the Verified Complaint.

57. Deny each and every allegation contained in paragraph "57" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

58. Deny each and every allegation contained in paragraph "58" of the Verified Complaint.

59. Deny each and every allegation contained in paragraph "59" of the Verified Complaint.

60. Deny each and every allegation contained in paragraph "60" of the Verified Complaint.

ANSWERING THE FOURTH CAUSE OF ACTION

61. Repeat, reiterate and reallege each and every response hereinbefore made with the same force and effect as though the same were set forth at length herein in answer to paragraph "61" of the Verified Complaint.

62. Deny each and every allegation contained in paragraph "62" of the Verified Complaint.

63. Deny any knowledge or information sufficient to form a belief as to the allegations contained in paragraph "63" of the Verified Complaint.

64. Deny each and every allegation contained in paragraph "64" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

65. Deny each and every allegation contained in paragraph "65" of the Verified Complaint.

66. Deny each and every allegation contained in paragraph "66" of the Verified Complaint.

67. Deny each and every allegation contained in paragraph "67" of the Verified Complaint.

ANSWERING THE FIFTH CAUSE OF ACTION

68. Repeat, reiterate and reallege each and every response hereinbefore made with the same force and effect as though the same were set forth at length herein in answer to paragraph "68" of the Verified Complaint.

69. Deny each and every allegation contained in paragraph "69" of the Verified Complaint.

70. Deny any knowledge or information sufficient to form a belief as to the allegations contained in paragraph "70" of the Verified Complaint.

71. Deny each and every allegation contained in paragraph "71" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

72. Deny each and every allegation contained in paragraph "72" of the Verified Complaint.

73. Deny each and every allegation contained in paragraph "73" of the Verified Complaint.

74. Deny each and every allegation contained in paragraph "74" of the Verified Complaint.

ANSWERING THE SIXTH CAUSE OF ACTION

75.Repeat, reiterate and reallege each and every response hereinbefore made with the same force and effect as though the same were set forth at length herein in answer to paragraph “75” of the Verified Complaint.

76.Deny each and every allegation contained in paragraph “76” of the Verified Complaint.

77.Deny any knowledge or information sufficient to form a belief as to the allegations contained in paragraph “77” of the Verified Complaint.

78.Deny each and every allegation contained in paragraph “78” of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

79.Deny each and every allegation contained in paragraph “79” of the Verified Complaint.

80.Deny each and every allegation contained in paragraph “80” of the Verified Complaint.

81.Deny each and every allegation contained in paragraph “81” of the Verified Complaint.

ANSWERING THE SEVENTH CAUSE OF ACTION

82.Repeat, reiterate and reallege each and every response hereinbefore made with the same force and effect as though the same were set forth at length herein in answer to paragraph “82” of the Verified Complaint.

83.Deny each and every allegation contained in paragraph “83” of the Verified Complaint.

84. Deny any knowledge or information sufficient to form a belief as to the allegations contained in paragraph "84" of the Verified Complaint.

85. Deny each and every allegation contained in paragraph "85" of the Verified Complaint but beg leave to refer all questions of law to the court at the trial of this action.

86. Deny each and every allegation contained in paragraph "86" of the Verified Complaint.

87. Deny each and every allegation contained in paragraph "87" of the Verified Complaint.

88. Deny each and every allegation contained in paragraph "88" of the Verified Complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

89. That any injuries and/or damages sustained by the plaintiff, as alleged in the Verified Complaint herein, were caused in whole or in part by the contributory negligence and/or culpable conduct of said plaintiff and not as a result of any contributory negligence and/or culpable conduct on the part of these answering defendants.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

90. That by entering into the activity in which the plaintiff was engaged at the time of the occurrence set forth in the Verified Complaint, said plaintiff knew the hazards thereof and the inherent risks incident thereto and had full knowledge of the dangers thereof; that whatever injuries and damages were sustained by the plaintiff herein as alleged in the Verified Complaint arose from and were caused by reason of

such risks voluntarily undertaken by plaintiff in her activities and such risks were assumed and accepted by her in performing and engaging in such activities.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

91.The liability of these defendants, if any, to the plaintiff for non-economic loss is limited to its equitable share, determined in accordance with the relative culpability of all persons or entities contributing to the total liability for non-economic loss, including named parties and others over whom plaintiff could have obtained personal jurisdiction with due diligence.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

92.In the event plaintiff recovers a verdict or judgment against these defendants, then said verdict or judgment must be reduced by those amounts which have been, or will, with reasonable certainty, replace or indemnify plaintiff in whole or in part, for any past or future claimed economic loss, from any collateral source programs.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

93.The Verified Complaint of plaintiff should be dismissed on the grounds that this jurisdiction is an improper jurisdiction under the doctrine of forum non-conveniens.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

94.Defendant hereby incorporates and asserts all applicable defenses existing under the laws of the Turks & Caicos Islands, British West Indies, the federal laws of United Kingdom or any state(s)and/or under doctrines and principles of international law, which the court determines are applicable to the instant litigation pursuant to any choice of law decision made in the future.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

95. Any injuries and damages, suffered by plaintiff was caused and/or contributed to by virtue of the contributory negligence of the plaintiff, and therefore, one or more of the causes of action are barred under the laws of Turks & Caicos.

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE

96. That if the plaintiff sustained the injuries complained of in the manner alleged, said injuries were caused by the negligence of parties over whom the answering defendants did not exercise supervision or control and was not obligated to exercise supervision or control.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

97. Plaintiff has failed to effectuate service of process over defendants CLUB MEDITERRANEE S.A., CLUB MED, INC., CLUB MED HOLDING, N.V., CLUB MED FINANCE B.V., HOLIDAY VILLAGES (PROVINCIALES TURKS and CAICOS), LTD., and CLUB MEDITERRANEE (BAHAMAS) LTD. in accordance with the Hague Convention and the court, therefore, lacks jurisdiction over the person of these defendants.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

98. That the defendants CLUB MEDITERRANEE S.A., CLUB MED, INC., CLUB MED HOLDING, N.V., CLUB MED FINANCE B.V., HOLIDAY VILLAGES (PROVINCIALES TURKS and CAICOS), LTD., and CLUB MEDITERRANEE (BAHAMAS) LTD. were not properly served in accordance with the provisions of the CPLR and the Business Corporation Law and the court, therefore, lacks jurisdiction over the entity of said defendants.

AS AND FOR AN ELEVENTH AFFIRMATIVE DEFENSE

99. The Verified Complaint fails to state facts sufficient to sustain a claim for, or recovery of, punitive damages as against these answering defendants.

AS AND FOR A TWELFTH AFFIRMATIVE DEFENSE

100. Plaintiff has executed a full release and waiver of any and all claims which plaintiff may have against these answering defendants and plaintiff's Complaint should therefore be dismissed.

WHEREFORE, these answering defendants demand judgment dismissing the Verified Complaint, together with the attorney's fees, costs and disbursements of this action.

Dated: New York, New York
April 11, 2005

Yours, etc.

STRONGIN ROTHMAN & ABRAMS, LLP

s/David Abrams

DAVID ABRAMS (DA-4758)
Attorneys for Defendants
CLUB MEDITERRANEE S.A., CLUB MED,
INC., CLUB MED HOLDING, N.V., CLUB
MED FINANCE B.V., CLUB MED SALES,
INC., HOLIDAY VILLAGES
(PROVINCIALES TURKS and CAICOS),
LTD., and CLUB MEDITERRANEE
(BAHAMAS) LTD.
50 Broadway, Suite 2003
New York, NY 10004
(212) 931-8300

STATE OF NEW YORK)
)SS.:
COUNTY OF NEW YORK)

SVETLANA LITVINKO, being duly sworn, deposes and says that she is not a party to this action, is over the age of 18 years, and resides in Richmond County, New York. That on this 11th day of April, 2005 she served the within **VERIFIED ANSWER** upon:

THE LAW FIRM OF RAVI BATRA, P.C.
The Batra Building
142 Lexington Avenue
New York, NY 10016
(212) 545-1993
Attorney for Plaintiff

by depositing a true copy of same securely enclosed in a post-paid wrapper in an official depository under the exclusive care and custody of the United States Post Office Department within the State of New York, by Regular Mail.

s/Svetlana Litvinko
SVETLANA LITVINKO

Sworn to before me this
11th day of April, 2005

s/Martin M. Adler
NOTARY PUBLIC, State of New York
No. 02AD6074310
Qualified in Kings County
Commission Expires 5/13/2006